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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,820	08/18/2003	James G. Prather	MW015	8037

7590 04/10/2007  
TERRELL P. LEWIS  
UNIT #8  
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EXAMINER

SWENSON, BRIAN L

ART UNIT	PAPER NUMBER
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3618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/645,820	<b>Applicant(s)</b> PRATHER ET AL.	
	<b>Examiner</b> Brian Swenson	<b>Art Unit</b> 3618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-16,18-31 and 33-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-14 and 24 is/are allowed.
- 6) ☒ Claim(s) 15,16,18-23,25-31,34 and 36 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/§B/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is in response to Applicant's submission submitted on 6 September 2006 where:

- a. Claims 1, 8, 11, 13-16, 18-19, 25-31 and 36 amended;
- b. Claims 2, 17, and 32 cancelled;
- c. Claims 33 and 37-38 are withdrawn (applicant is advised that withdrawn claim 33 depends from cancelled claim 32);
- d. Claims 1, 3-16, 18-31, and 34-36 pending in this office action.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "child's seat 202" mentioned in paragraph [0030]. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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3. Applicant states in that a Replacement Sheet showing the "child seat 202" was submitted with the response filed 6 September 2006; however, no replacement sheets were found with the submission.

***Claim Objections***

4. Claim 33 objected to because of the following informalities: Claim 33 depends from cancelled claim 32. Appropriate correction will required at the time of allowance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 15-16 and 18-23 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The newly added limitation "an array of connected elements" is considered new matter, which was not supported by the originally filed disclosure.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 15-16, 18-23, 25-30 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 25 recites the limitation, ***“conventional” shopping carts***. The limitation, ***“conventional” shopping carts*** is not of proper scope as, ***“conventional” shopping carts*** have not been positively recited, leaving it unclear and indefinite as to what is encompassed by the comparison with the claimed shopping cart and the “conventional shopping cart”. Further the use of quotes around the word—conventional—further adds indefiniteness. The word conventional is known in the art; the use of quotes typically indicates an *ad hoc* or limited definition. In this case the use of quotes causes confusion, and it is unclear what “conventional” refers to in this case. If two carts have similar wheels are they considered “conventional”?

Claims 15 and 27 recite the limitations: “lower center of gravity of container and frame combinations of **other known** shopping carts” and “structure in **known** shopping carts.” The limitation, ***“known shopping carts”*** is not of proper scope, as what constitutes a ***“known shopping carts”*** has not been positively recited or particularly pointed out, leaving it unclear and indefinite as to what is encompassed by the comparison with the claimed shopping cart and “known shopping carts”. As disclosed in prior office actions, the language: *conventional shopping carts* would be accepted. The word *known* is defined: “to be aware of the truth or factuality of: to be convinced or certain of (Merriam-Webster’s 10<sup>th</sup> Collegiate Edition).” The scope of all known shopping carts has not been particularly pointed out, as required by the second

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paragraph of 35 USC 112. The examiner has previously stated in the record that word *conventional*—defined as “ordinary, commonplace (Merriam-Webster’s 10<sup>th</sup> Collegiate Edition)”—would be acceptable.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claim 25, as best understood, is rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S. Patent No. 5,507,507 issued to Davidson.

Davidson teaches in Figures 1-9 and respective portions of the specification of a shopping cart comprising: a wheeled base (rails 22,24 and casters 14), said base including a handle (26) and support members (32) connecting the handle to the wheeled base, a basket support structure (element 26 and 36) on said base, said basket support structure being disposed forwardly of the rear of the wheeled base (Figure 1), a basket mounted (18b) on said basket support structure, and suspended from the support members at a position substantially below said handle (Figure 1), and two merchandise carriers (18b and child seat 66 can be used to carry merchandise) disposed behind the basket, one merchandise carrier (38) disposed below said basket

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(Figure 1) and secured (on lug 40) between said basket support structure and the rear of the wheeled base (Figure 1).

8. Claims 31, 34 and 36 rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S. Patent No. 6,926,291 issued to Ondrastik.

In re claim 34, see Figure 2.

***Response to Arguments***

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

10. Claims 1, 3-14, and 24 allowed.

11. Claim 35 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claims 15-16 and 18-23 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

13. Claims 26-30 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

14. The following is an examiner's statement of reasons for allowance: The primary reason for the indication of allowable subject matter in this case is the inclusion of: a gate member pivotally attached to a handle member, which extends upwards from a wheeled base, where the gate member pivotally closes the rear of a container

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supported above the wheeled base with a pedestal and the rear of the container is secured to the pedestal forward of the rear of the base, in combination with the other elements recited, not found in the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



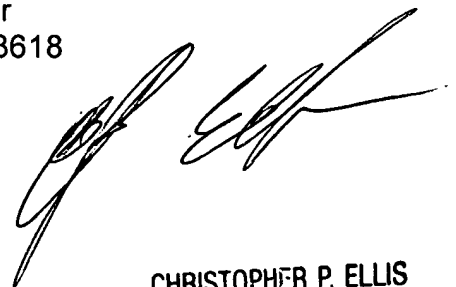
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Swenson whose telephone number is (571) 272-6699. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BIS 4/1/07  
bls

Brian Swenson  
Examiner  
Art Unit 3618



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